IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

Bail Appl..No. 7780 of 2007()

CRMP.2344/2007 of DISTRICT COURT, PATHANAMTHITTA.
CRIME NO.7780/2007 OF KONNI POLICE STATION)
.....

PETITIONER/ACCUSED

SHABU @ SABU, AGED 28 YEARS,
S/O. SULAIMAN, MELE PARAYIL, MAROOR PALAM,
MANGARAM, KONNI.

BY ADV. SRI.V.SETHUNATH

RESPONDENTS: COMPLAINANT/STATE
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1. **THE SUB INSPECTOR OF POLICE,**
   KONNI POLICE STATION.

2. **STATE OF KERALA, REPRESENTED BY**
   THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.7780 of 2007

Dated this the 17th day of December 2007

O R D E R

Application for regular bail. The petitioner faces allegations in a crime registered under Section 302 I.P.C. The alleged incident took place on 23/11/2007. The petitioner had an animus against the deceased. The deceased was having an improper relationship allegedly with the mother of the petitioner. On account of that animosity, the petitioner who was the driver of a mini bus allegedly hit the vehicle, in which the deceased was proceeding in front, with his mini bus. As a result of the hit on the rear of the motor cycle, the deceased was thrown out. He suffered injuries. He succumbed to that injury also. The petitioner was arrested on 24/11/2007 and continues in custody from that date.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. At worst, it can only be reckoned as an unfortunate accident. The theory that the petitioner had deliberately knocked on the rear of the two wheeler of the deceased is false and fanciful. The petitioner may be granted regular bail now, it is prayed.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the circumstances eloquently reveal that it was a case of deliberate knocking of the deceased on the rear of his motor cycle with the vehicle driven by the petitioner. It was a deliberate attempt to cause death which proved to be successful. In any view of the matter, the petitioner who was arrested only on 24/11/2007 does not deserve to be enlarged on bail now, submits the learned Public Prosecutor.

4. Having considered all the relevant inputs I find merit in the opposition by the learned Public Prosecutor. The learned Public Prosecutor has drawn my attention to the allegations in the F.I.R lodged by the brother of the deceased as also statements of eye witnesses. I am satisfied that at the moment there are no circumstances which can persuade this court to invoke the discretion under Section 439 Cr.P.C in favour of the petitioner herein. I agree with the learned Public Prosecutor that the investigating officers in a serious crime like this are certainly entitled to further time to complete the investigation.

5. In the result, this petition is dismissed. However, I may hasten to observe that the petitioner shall be at liberty to move this court for bail again at later stages of the investigation not, at any rate, prior to 31/01/2008. The investigating officer shall, in the meantime, make every endeavour to complete the investigation.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007